App. F. IX-4

Previous References

1929-30
Law

File No. 2-29
Serial Nos. 12 & 13

Later References
Can 56 30 1-3
" 2-32-142

Preserve
M
1/10/44

General and Revenue Secretariat.

Serial Nos. 1100.

Part B for 1929-30

SUBJECT

Petn of D. P. Shirodkar for Rs 300/- being fee for services rendered in O.S. 69 25-26 Ch to Govt in Ot. Jur. Shirodkar regarding Encroachment & Mischief Case

Sanad 15-8-30
Law clerk's fee Rs 200/-

General and Revenue Secretariat

File No. 2 of 1929

Serial No.

Letter No. 120 dated 22nd June 1930 from the PPR Shimoga, forwarding a bill for Rs 300/- being his fees for services rendered in O.S.6 of 25.26 on the file of the Ist Addl Sr. Munsiff Shimoga Succession to Bhimanakatte Case—

1) The Advocate's fee assessed in the decree is only Rs 30/-. The PPR, Shimoga however claims Rs 300/- on account of the difficult & important nature of the case, which dragged on for over 4½ years underg as many as 50 hearings. He also says, that he has not claimed any fee for the proceedings in the case arising out the grant of a temporary injn.

2) The suit was a declaratory one Contesting the jurisdiction of the Govt to appoint successors to the Bhimanake Mutt, and involved very important questions of law and fact. The PPR is therefore certainly entitled to claim a higher fee than that allowed in the decree, ~~xxx~~ (Rs 30/-). Submitted for orde... to what fee may be sanctione under the Circs

2/7/6

Rs 26.6 2/7/6

3 (A-K) A fee of Rs 150 on

WD 02328—GPB—10,000—22-4-30

File No. of 193

the [illegible] in this [illegible] [illegible] the Matt properties are still under Govt management and that the expenditure is to be debited to the Matt funds. Please verify this.

[illegible]
9/7
2
9/7

4) For favour of furnishing the information required at A Hue branch on

5) The matt is now under [illegible] management. The main file on this subject is under submission with a draft. Subd for orders with reference to Legal Remembrancer's note in para 3 of the notes

7.S.Matt
10/7.

H. Lacy
1st Member)

11.7.30

12.7.30

6) A fee of Rs 200 may be paid from the funds of the Matt

(Mark)
12.7.30

WD 02328—GPB—10,000—22-4-30

Draft [redacted] sanctioning Rs. 200
as per 1st meeting [redacted]
for approval

Legal Dr

Member

No 240.
Encl.

SHIMOGA,

Dated 14th. February, 19 30.

From

N. SESHA SASTRI, ESQ., B.A., B.L.,
Public Prosecutor,
SHIMOGA DIVISION.

To

The Secretary to Government,
Law Department, Bangalore.

Sir,

Re O.S. 6/25-26, District Judge's Court, Shimoga.
(Balakrishna Vs Government of Mysore & others.)

I have the honor to state that after hearing arguments on questions of law regarding the maintainability of the suit, the Court passed orders on 12-2-1930 dismissing the suit with costs on the grounds that the cognizance of such a suit ~~is~~ by the Civil Courts is barred. A copy of the judgment is ~~applied~~ applied for and the same will be sent as soon as ready as required by Rule 104 of the Rules for the Conduct of Legal Affairs of ~~the~~

I have the honor to be,
Sir,
Your most obedient servant,
N-S. Krishnamurthi
for Public Prosecutor, Shimoga Division.

The Suit was for a declaration that the plaintiff Balakrishna was the only person lawfully entitled to succeed to the Peeta of the Bhimanakatte Mutt. The connected papers must be in the Mer Br. to which this may be sent for information & return.
20/2
A copy of the judgt in this case may be sent to the Public Prosr, Mysore Dist, for information in connecti

4768
P 89

No 317.
Encl. 1

SHIMOGA,

Dated 1st. April. 1930.

From

N. SESHA SASTRI, ESQ., B.A., B.L.,
Public Prosecutor,
SHIMOGA DIVISION.

To

The Secretary to Government,
Law Department, Bangalore.

Sir,

Re O.S. 6/25-26, District Judge's Court, Shimoga.
(Balakrishna Vs Government of Mysore & others)

In continuation of my letter No. 240 dated 14-2-30 intimating that the above suit was dismissed with costs, I have the honor to forward herewith a certified copy of the judgment and decree in the same as required by Rule 104 of the Rules for the Conduct of Legal Affairs of Government.

I have the honof to be,
Sir,
Your most obedient servant,
N. S. Krishna murthi
for Public Prosecutor, Shimoga Division.

In the Court of the District gudge

Shimoga.

original Suit Number 6 of 1925-1926.

1st sheet. Dated the 12th day of February 1980 ~~1929~~.

Present :- B. R. Krishnamachar Esquire B.A, B.L,

District gudge.

Plaintiff :- Vedamurthy Balakrishna

minor by next friend father

B. R. Lakshminarayanachar.

Defendants :- 1. The government of

Mysore, represented by its Chief

Secretary, Bangalore.

2. The Swami of Bhandara Kere Math

Sri Vidyarnava Thirtha Sripadangalavaru

since deceased by legal representative

Sri Vidyamanya Thirtha Sripadangalu

minor by guardian Agraharada

Lakshminarayana upadhyaya, (since)

(deceased) 3.

TWO ANNAS
GOVERNMENT OF MYSORE
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7. Guruchar 8. H. Subba Rao.

9. Lakshminarayanachar.

10. Pandurangappa. 11. Manjappa.

12. Bhima Rao, minor by guardian Madhyastha. 13. S. Venkatabhatta.

14. Ajamila alias Anantharama Upadhya. 15. H. Subrayachar.

16. G. Hayagrivachar 17. S. Vishnu-murthi Bhatta. (18) H. Nageshа Rao

19. H. Vengata Rao. (20) H. Ramakrishnappa

21. K. Guruvarajachar. 22. H. Sreenivasachar

23. K. Anantachar (24) M. Narasimhachar

25. B. Hanchachar. 26. H. Ramabhatta.

27. Vyasachar (28) Krishnabhatta

(29) Muniyappa. (30) Manjappa. 31 Vengataram

(32) Seetharamiah (33) Sreenivasachar

(34) Venkataramanabhatta.

35. Guruvarajachar 36. Vengataramanachar

TWO ANNAS
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GOVT OF MYSORE

7. 10. 1925. The written statements of defendants 1, 2 and 3 a 3 b 3 c 3 g were filed on 25. 7 1927. The written statements of Defendants 3 (e) 3 (f) 3 (g) and 3 h were filed on 25. 7. 1927.

The written statement of the 4th defendant was filed on 5. 7-1927. The written statement of supplemental defendants 5 to 37 was filed on 4-8-1927. The plaintiff's reply statement was filed on 25-10-1927.

3. The suit came on for settlement of issues on 22. 11-192

4 The following issues were framed

(1) Is the suit maintainable against the 1st defendant

TWO ANNAS
GOVERNMENT OF MYSORE
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(2) Has the Court got the jurisdiction to try this suit?

(3) Is the recognition of the 4th defendant an act of prerogative not liable to be questioned by Civil Courts?

(4) Is the suit for mere declaration not maintainable as pleaded?

5 (a) Is the settlement deed referred to in para 4 of the plaint genuine and the nomination in favour of plaintiff valid and binding on the defendants?

(b) If so, what is its legal effect?

6. Is there any custom or usage that the candidate selected should be below 16 years of age?

TWO ANNAS ಎರಡು ಆಣೆ GOVT OF MYSORE

(7) To what relief is plaintiff entitled?

5. The suit came on for hearing arguments on issues of law i.e. (Issues 1 to 4) on 14-12-1927 and then by adjournments on 6-8-1929.

6. No witnesses have been examined and no documents have been admitted in evidence in the case.

Judgment:

1. This suit relates to the succession to the peetha of a Madhwa Mutt popularly known as "Sri Bheemanakatte Mutt" situate in Tirthahally Taluq.

This Mutt is said to own valuable properties both

TWO ANNAS
GOVT OF MYSORE
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in and outside Mysore state, and it would appear that there are several sacred idols of antiquity in the Mutt-building which are held in great veneration

2. Plaintiffs' case is as follows

Sree Raghu Bhooshana Thirtha Sree padangalavaru, who was the late Swamy and occupant of the peetha in the said Mutt, passed away on 9-7-1922.

During his last illness, he executed a deed of settlement dated 30-6-1922, duly nominating the present plaintiff (Vedamurthi Balakrishna) as his successor to the peetha, and directing

TWO ANNAS
GOVT OF MYSORE
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the Second defendant – who is the Swamy of the Dwandwa Mutt called Sree Bhandarakeree Mutt of Udipi — to ordain ie to initiate and give Ashramam) him in case he himself did not do so, and declaring that no other nomination would be valid

The ordaining of the plaintiff did not however take place during the said Swamy's life-time as the plaintiff was not with him at the time of his death.

The Deputy Commissioner of Shimoga District after due enquiry, held that plaintiff had been duly nominated and that he was entitled to succeed to the peetha,

TWO ANNAS
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GOVERNMENT OF MYSORE

and the Mouzare Commissioner supported the recommendation made by the Deputy Commissioner

10th sheet- When the matter came up before the Government (who are arrayed as the first Defendant in this case) who are managing the properties of the said Mutt, they decided against the plaintiff on the ground that he was not a Bala Bramhachari (ಬಾಲ ಬ್ರಹ್ಮಚಾರಿ ಶ್ರೀ ಪೂ) — interpreting that term to mean that the nominee must be below 16 years of age. The said interpretation is wrong and untenable as it is opposed to the prevailing usage; and as the plaintiff was

'd at the

time

TWO ANNAS
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GOVT OF MYSORE

time of his nomination, the said objection will not avail. Bala-Brambhachari" is one who is from his child-hood an unmarried celibate, and the plaintiff answers that description

11th sheet

The Second Defendant has a right to nominate a successor to the peetha of Sree Bheemanakatte Mutt only when the last incumbent and the Swamy of that Mutt has not nominated his successor. He can only perform the rituals or ceremonial acts of ordination when the last incumbent has nominated his successor. The Second Defendant nevertheless nominated the fourth Defendant Adipe Bodhachar alias

TWO ANNAS
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GOVT OF MYSORE

alias Bodharayachar to succeed to the peetha, and ordained him also during the inauspicious period of Chathurmasya (ಚತುರ್ಮಾಸ್ಯ); and the Government have accepted and approved the said nomination although it was against the wishes of the Sishyas or disciples, and have passed orders on 14-3-1925 adversely to plaintiff.

The nomination and the ordination of the fourth defendant by the second Defendant is opposed to law and usage governing the succession to the peetha of this Matha and they do not affect plaintiffs' rights to succeed to the office.

Hence the suit for a declaration

(a)

TWO ANNAS
GOVT OF MYSORE
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(a) that plaintiff is entitled to succeed to the office or peetha of Sree Bheemanakatte Mutt, and to enjoy all the privileges, rights and properties belonging to the same;

(b) that the nomination and ordination of the 4th Defendant by the 2nd Defendant which have been approved by the Government (1st Defendant) are illegal and void;

and for an injunction restraining the Defendants from doing any acts which would be prejudicial to plaintiff's rights.

3. The Government of Mysore (First Defendant) resist plaintiff's suit on the following grounds.

(a)

(a) That this suit does not lie against the Government as the relief claimed does not come within the purview of Section 2 of Regulation VII of 1923 (A Regulation to provide for suits against Government);

(b) That there is no cause of action against the Government, and the Government is not therefore a necessary party;

(c) That plaintiff has no right to question the legality or otherwise of the order of the Government, dated 14-3-1925, and this court has no jurisdiction to consider the same:

under the Rules in force regarding the recognition of succession

TWO ANNAS
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GOVERNMENT OF MYSORE

to the peetha of a Mutt (Rules of 1880), His Highness the Maharaya has power to recognize the succession of a guru for the purpose of enabling him to enjoy all state grants in land or money, and the customary 'Marzades and Birdus' granted by the Sovereign. Non-recognition by His Highness will involve the resumption of all such grants etc.

As the order of the Government in question is the order of His Highness under the power vested in him under the Rules mentioned above, this court has no power to pass a decree compelling His Highness to recognize the person declared by it as guru for the purpose of enjoying

TWO ANNAS
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GOVT OF MYSORE

enjoying State grants etc as the plaintiff prays for in para 28(a) of the plaint;

[and] (d), That under powers vested in the government under the Mhuzari Regulation of 1913, and the Religious and charitable Institutions Regulation of 1927, the government is managing the properties of the Mutt as the 4th Defendant - who is the recognised Guru - is a minor.

Defence of Defendants 2 and 4 is to the following effect:-

(1) This suit does not lie within the jurisdiction of this Court as it relates to matters wherein the government have power to pass orders and have passed orders under Sections 40 of Regulation

TWO ANNAS
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GOVT OF MYSORE

Regulation VII of 1927 (corresponding to Section 38 of Regulation VI of 1913);

(II) The recognition of the second Defendant as the Head of the plaint-Mutt (Sree Bheemanakatte Mutt) by the Government is an Act of State passed by them by virtue of the right of prerogative vested in them, and plaintiff's suit questioning the said Act is not cognizable by the Court;

(iii) The suit for a declaration without asking for consequential relief to wit for the possession and its properties is not maintainable under Section 42 of Specific Relief Act.

(iv) The deed of settlement relied on by the plaintiff is not genuine, and even if genuine ~~and~~ it confers

TWO ANNAS
MYSORE
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no legal status or character on Plaintiff.

No nomination is valid without first initiating the nominee into Sanyasum.

And the mere nomination of plaintiff by the late Swamy without ordaining him into the order of Sanyasa has no legal effect.

The Mutt over which the 2nd Defendant presides (Sree Bhandara Kere Mutt) and the plaint- Mutt (Sree Bheemana Katte Mutt) have each the right of selecting a successor to the other whenever a vacancy occurs in the peetha or office — which right is known as "Swandwa right" —;

and

TWO ANNAS
GOVT OF MYSORE
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and in the present case, the 2nd Defendant has the right- of selecting a successor to the plaint- Mutt and give him the Ashrama, as the late Swamy of p. had not ordained any one into Sanyasa and nominated him to succeed.

(V) The usage of the Mutt i question is that the candidate sele for the peetha should be a Bala Bramhachari (ಬಾಲ ಬ್ರಹ್ಮಚಾರಿ) - that is to say one below 16 ye of age at the time of his initi and plaintiff being past that is precluded from being ordain into Sanyasam and occupy the pee of the plaint- Mutt.

It is not true that h

TWO ANNAS
MYSORE
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was 13 years old at the time of the alleged nomination.

(vi) Fourth Defendant was not nominated and ordained by the Second Defendant during Chaturmasya period; nor were the ceremonies of initiation performed during — — Chaturmasya.

Fourth Defendant was duly ordained and appointed to succeed to the peetha of the plaint-Mutt by the Second Defendant and the Government have recognized the said succession after making necessary enquiries.

5 Nine Sishyas of the plaint-Mutt were grouped together and were designated as Defendant No.

TWO ANNAS
MYSORE
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in the plaint, and they filed written statements supporting plaintiffs' case

2/SC sheet.

After the suit was published under order 1. Rule 8 C. P. Code for the information of all Sishyas or persons interested in the Subject-matter, 33 persons appeared, who were arrayed as supplemental Defendants - Numbers 5 to 37. They filed a written statement supporting fourth Defendants' case.

6. Before going into the merits of plaintiffs case and recording evidence, the following Issues of law were taken up for consideration (Issues 1 to 4).

I. Is the suit maintainable against

TWO ANNAS MYSORE ಎರಡು ಆಣೆ

against the first Defendant (ie the Government)?

II Has the court got the jurisdiction to try this suit?

III. Is the recognition of the 4th Defendant an act of prerogative not liable to be questioned by civil courts?

and IV Is the suit for mere declaration not maintainable as pleaded?

7. Issue No. I.

Regulation No. VII of 1923, which is an enactment providing for suits against the Government of Mysore, contains that a suit to which the Government is a party as a Defendan may

may be heard and determined by the principal civil Court of origenar gurisdiction having gurisdiction over the subject-mat of the suit, if the claim in respect of which the suit is brought is for any of the reliefs specified in section 2 — of the said reliefs being the rectification or the cancellation of any instrument.

23rd sheet.

[Section 2 Cl (6)]

In the said Regulation the term Instrument has not been defined.

It is defined in the Mysor Stamp Regulation (No. II of 1900) in section 2 clause (14) as follows:-

"Instrumen

TWO ANNAS
MYSORE
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24th sheet.

Instrument includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded'.

Mulla and pratt, in their commentaries on the Indian Stamp Act [1924 Edition page 139], have stated :-

"An instrument is a writing and generally imports a document of a formal legal kind (Strond) The Definition is extensive, and an entry in a Register signed by thumb-impression was held to be an instrument (I L.R 36 All. 117 B)

Beals cordinal Rules of Legal Interpretations page 55 contain

TWO ANNAS
GOVERNMENT OF MYSORE
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the following :-

"An instrument seems to embrace contracts, deeds, statut wills, orders-in council, orders, warrants, schemes, Letters patent Rules; Regulations Bye-laws, whether in writing or in print, or partly in both. In fact, any written or printed document that may have to be interpreted by the Courts."

Plaintiffs' prayer in this case is for a declaration that he is entitled to succeed to the peetha of Sree Bheemanakatte Mutt and consequently to enjoy all the properties, rights, and privileges incidental thereto,

and that the 4th Defendant, who

who has been nominated and ordained by the 2nd Defendant to the said peetha and whose nomination has been recognised and approved by the Government is not entitled to succeed

26th sheet-

The Government of Mysore in their order, dated 14-3-1925, passed in Muzarai Appeal Number 11 of 1923-24, refused to recognize plaintiff's right to succeed to the peetha of the said Mutt, and directed the Swamy of Sree Bhandarakere Mutt (the 2nd Defendant) to select a competent person and report the name of the nominee for their approval as required by the standing orders.

[Vide the copy of the said Government order which has been filed on behalf of

TWO ANNAS
MYSORE
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of 4th Defendant]

Fourth Defendant was selected and reported and the Government approved the nomination.

The order of the Government whereby plaintiffs alleged or supposed right was not recognised (in other words extinguished) is, in my opinion, an instrument.

Plaintiff questions the right of the Government to interfere in the matter of selection and nomination to the peetha of Sree Bheemana Katte Mutt, and questions the propriety and the legality of their order, alleging that he had been duly nominated by the late Swamy of the said Mutt according to the prevailing practice and

and

and has impleaded the Governme
as a party. Defendant to compe
them to recognise his right to
28th sheet. succeed to the said peetha.

His suit is therefore —
virtually a suit for the rectifica
tion as well as for the cancellati
of the said Government order
above quoted.

I hold prima facie that the
suit is sustainable as it appear
to fall under Section 2 clause(E
of Regulation Number VII of 1923
8. Issue number II.

Has the Court got jurisdictio
to try this suit?
and
Issue number III :-

Is the recognition of the
4th

TWO ANNAS ಎರಡು ಆಣೆ MYSORE

4th Defendant an act of prerogative not liable to be questioned by civil courts?

[A] Section 9 of the Civil Procedure Code

4th sheet says.

"The courts shall (subject to the provision herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation :- A suit in which the right to property or to an office is contested is a suit of a civil nature, not-with-standing that such right may depend entirely on the decision of questions as to religious rites or ceremonies".

The suit by plaintiff in this case is one for a religious office, and plaintiff claims to be entitled

to

TWO ANNAS
MYSORE
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to succeed to that office and seeks for a declaration in that behalf as against an intruder who is alleged to have wrongfully usurped the same. The holder of the said office is said to be entitled to enjoy some properties, rights, and privileges.

I think that plaintiff can sustain this suit, which is a suit of a Civil nature, if its cognizance were not otherwise expressly or impliedly barred.

B] I do not think that it is disputed that the Mutt in question (Sree Bheemanakatte Mutt) is a Muzarai Institution-enjoying Government grants. It should therefore be governed by the Muzrai Rules and

Muzrai

TWO ANNAS
GOVT OF MYSORE
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Muzrai Regulations which are in force in this state.

Revised Rules for the Succession of Gurus to Mathas have been printed on pages 161 and 162 of the Mysore Muzrai Manual, with a preamble and I reproduce the same here :- [No 3831-8-R 679 dated 1st October 1880]

1. It has been brought to notice that the established custom of obtaining His Highness the Maharaja's previous consent to nomination of successors to religious Mathas within the state has not been followed in recent years in a few individual instances.

2. This custom which is an ancient

TWO ANNAS
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MYSORE

ncient one was followed even durin
he British administration of the
ate by reporting every succession
o a Matha for the orders of the
hief Commissioner.

3. The omission to report in
few cases has led to the succession
f the Gurushipp of persons who
rom their antecedents or lack of
earning and qualifications do not
always command the esteem and
regard of their disciples.

4. The Government of His
Highness the Maharaja are of opinion
at it will advance the public good
enforce due observance of the custom
regards those Mathas which
njoy Government grants.

TWO ANNAS
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MYSORE

5. It is therefore ordered that the following Rules on the subject will be communicated to all the Mat in the State.

Rules.

(i) Every succession to a Matha enjoying Government grants in land or money or honours granted by the Sovereign, should receive the approval of His Highness the Maharaja.

Such approval should ordinarily be obtained by previous application to His Highness in the Munrai Department.

ii To provide as far as possible against the contingency of a Guru dying suddenly, he may as an act of ordinary prudence fix upon one

or

TWO ANNAS
MYSORE
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or more eligible persons for an eventual selection by himself as his successor and obtain His Highness's opinion as to the eligibility of such persons. The Guru may then in due time, select one of them to succeed him.

(iii) Should the Guru fail to obtain His Highness's approval to an eligible candidate or candidates, and should he on the sudden approach of death or fear of death select a successor and give the Asramam to him, the recognition of his succession will, for the purpose of enabling him to enjoy all state grants in land or money, rest with His Highness, who, in exercising his

TWO ANNAS
MYSORE
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his discretion in the matter will be guided by the opinion of the community and the personal qualificatio of the successor.

(iV) Should a Guru die without giving Asramam to a successor surviving him then a proper successo shall be selected by the community interested with the consent of His Highness.

(V) Non recognition of a successor by His Highness will involve the resumption of all State grants land or money and the customary Mariadees and Birudus granted or enjoyed under authority from the Sovereign.

On page 168 of the same Mannual, we find :-

Government are therefore pleased to lay down that on questions relating to the use of insignia (ie Honours & Heads of Mathas), parties be not referred to Civil Courts, but that all such questions be submitted to Government for orders and that the orders passed by Government be strictly enforced"

Plaintiff in this case rightly approached the Government to recognise and approve his nomination to succeed to the religious office in question. The District Munsif officer ie the Deputy Commissioner Shimoga District who was directed to hold an enquiry and submit his report sent up a recommendation in plaintiff's favour and the Munsif Commissioner

TWO ANNAS MYSORE ಎರಡು ಆಣೆ

Commissioner supported the same.
But, when the matter came up
before His Highness' government, t
were not pleased to accept the sa
recommendation on the strength of
the case reported in 34 I c 875
and requested the late Swamy
or Guru of the Dwandwa Ma
(the 2nd Defendant) to select a
competent candidate and make a
report.

Under the Rules mentioned
above, the powers of His Highness's
Government are absolute in the
matter of appointing or approving
successors to Mathas enjoying
grant by the Sovereign and the
said powers and the acts done thereund
cannot

TWO ANNAS
MYSORE
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cannot be questioned in Civil Courts.

The right of the Government in the matter of appointing or approving successors to Mathas enjoying grants by the Sovereign has not been in the least trenched upon or abrogated or repealed either by the Mysore Muzrai Regulation (No. VI of 1913) or by the Mysore Religious and Charitable Institutions Regulation (No. VII of 1927) although they purport to consolidate and amend the Law relating to Muzrai Institutions and other Religious and Charitable Institutions in Mysore. Those Regulations are intended to provide for the following matters only:-

TWO ANNAS
GOVT OF MYSORE
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(a) Undertaking by the Governmen
of the Management of a religi
or charitable institution;

(b) Reference by the Mayrai
officer to District judge in case
of dispute arising as to whet
any charitable or religious ...
has been actually constituted

(c) Enquiry by the Mayrai officer
regarding alleged mismanagement
of property of a religious or
charitable institution;

(d) Enquiry by the Mayrai
officer regarding alleged wrongfu
alienation of property belonging
to a religious or charitable
institution;

(e) orders by the Mayrai officer
for

TWO ANNAS
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MYSORE

for the utilization of the property belonging to a religious or charitable institution for similar purposes when the original object of the trust in whole or in part has failed;

(f) Enquiry by the Muzrai officer regarding alleged wrongful alienation of Inams granted by the Government for the upkeep of religious or charitable institution

(g) undertaking by the Government of the management and possession of the properties of the Mathas or other institutions of a similar nature

(h) Enquiry into allegations of mismanagement of property by the Head

of

TWO ANNAS
MYSORE
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of a Matha

and, (i) Enquiry into disputes abor the office of a poojari and other tempt Servants.

The right of the Government to approve or not to approve a succe to the peetha of a Matha, which enjoys Government grants, has been preserved in tact and is not taken away by the above mentioned Regulations. I am therefore of opinion that the cognizance of plaintiff's suit by Civil Courts is expressly barred by the Rules above quoted although it is a suit of a civil nature

I hold therefore on the II Issue that this court has jur no

TWO ANNAS
MYSORE
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no jurisdiction to try this suit;
and on the III Issue that the
recognition of the 4th Defendant-
by the Government as the successor
of the office in question is an act-
of prerogative which is not liable
to be questioned by Civil Courts.

Issue No. IV:

The properties of the plaint
suit are under Government-Managem
from about the time of the death
of the late Swamy. They have been
managing them on behalf of the
rightful owner as Trustees. As such
I think that it is not necessary
for the plaintiff to ask for possessi
of those properties in this suit
Vide a similar case reported in VII

Mysore

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Mysore Law gournal Reports page.

I hold therefore that the suit for a bare declaration is maintainable. As a result of my findings on issues numbers II and III, plaintiff's suit fails and is consequently dismissed with costs.

Separate Sets]

One Set of costs for Defendant Number I. and another for Defendants 2 and 4.

Advocate's fee. Rupees 30/- only.

Pronounced in open Court.

(Signed) B. R. Krishnamachar

District Judge.

12. 2. 1930.

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Head Record Keeper.

By Mr. N. S. Krishna Murthy for Mr. N. Seshasastry
Government Pleader.

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Decree Section 34. Civil procedure Code Form number 15. (Civil).

In the Court of the District judge Shimoga.

Original suit number 6 of 1925-1926

Plaintiff :- Vedamurthy Balakrishna son of B. K. Lakshminarayanachar, minor by next friend father B. K. Lakshminarayanachar, resident of Bhimana katte, Tirthaha Talug.

Defendants :- 1. The Government of Mysore represented by its Chief Secretary, Bangalore.

2. The Swami of Bandarakere Mutt, Sri Vidyarnava Thirtha Sri padangalavaru, deceased by Legal Representative Sri Vidyamany Thirtha

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GOVERNMENT OF MYSORE

~~(deceased by legal representative)~~

~~Sri Vidyamanya~~ Thirtha Sri padangala minor by guardian Agraharada Lakshminarayana upadhya, residing at Admar, Udipi Taluq.

3. The Sishyas of Sri Bhimanakai Mutt represented by the followin who are the leading representative thereof.

3(a) Hadigallu Nagappa. 3(b) Mundukal Venkatadasachar son of Gururayachar (3)(c) Hadigallu Naranappa, patel, resident of Hadigallu, Thirthahalli Taluq. 3(d) Kadaour Kadappa bin pandurangappa, resident of Kadaour, Nagar Taluq 3(e) Halandur Subbanna resident of Halandur, Nagar Taluq. 3(f) Haya grivachar bin Venkatramanachar

resident

TWO ANNAS
GOVERNMENT OF MYSORE
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resident of Bhimanakatte Thirthahalli Talug. 3(g) Valageri Gururajachar bin Vittalachar, resident of Valage Muthur Hobli, Thirthahalli Talug. 3(h) Hunasavalli Venkatramanacha bin Raghavendrachar resident of Hunasavalli, Thirthahalli Talug. 3(i) Devastanada Padmanabhiah resident of Hadigallu, Tirthahalli Talug

4. Udipi Bodhachar alias Sri Raghutilaka Swami, minor by guardian Udipi Ramachar, resident of Tirthahalli.

Supplemental defendants.

5. Raghupraveerachar. 6. Narayanachar 7. Gurachar. 8. H. Subba Rao. 9. Lakshminarayanaiah.

10. Pandurangappa 11 Manjappa

12. Bhima Rao. minor guardian

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13. S. Venkatabhatta. 14. Ajamila alias Ananthrama Upadhya. 15. H. Subrayach 16. G. Hayagreevachar 17. S. Vishnumurth Bhatta 18. H. Nageshа Rao. 19. H. Vengata 20. H. RamaKrishnappa 21. K. Gururayach 22. H. Sreenivasachar 23. K. Ananthach 24. M. Narasimhachar 25. B. Huchach 26. H. Ramabhatta 27. Vyasachar 28. Krishnabhatta 29 Mariyappa 30. Manjappa 31. Vengata Rao. 32. Seetharamiah 33. Sreenivasachar 34. Vengataramanabhatta. 35. Gururayachar 36. Vengataramanacha 7. B. Vedvyasachar.

The suit is for a declaration that plaintiff is entitled to succeed to the office or peetha of Shree Bheemana Katte Mutt, and to

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to enjoy all the privileges, rights, and properties belonging to the same; (b) that the nomination and ordination of the 4th defendant by the 2nd defendant which have been approved by the Government (1st defendant) are illegal and void, and for an injunction :- restraining the defendants from doing any acts which would be prejudicial to plaintiffs' rights.

This suit coming on for final disposal before B. R. Krishnamachar Esquire, B. A., B. L., District Judge, Shimoga in the presence of Mr. T. Venkatasubbasastry Advocate for the plaintiff, Mr. N. Seshasastry, public prosecutor for the 1st defendant, Mr. C. Subba Rao Advocate for the 2nd defendant. Mr. D. Sreenivasarao

Advocate

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Advocate for defendants 3(a) 3-(b) 3-(c) and 3(i) Mr. M. Subba Rao. Advocate for defendants 3-(e) to 3-(h). Mr. T. G. Narayana Iyengar, Advocate for the 4th Defendant. Mr. G. Venkata-krishnaiah, advocate for Supplemental defendants 5 to 37 and defendant 3 being absent.

It is ordered and decreed that the plaintiff's suit fails and is dismissed with costs, one set of costs for defendant number 1 and another set for defendants 2 and

And it is further ordered and decreed that the plaintiff do pay to defendant number 1 and defendants 2 and 4 the Sum of rupees 30-0-0 and rupees 31-8-0 respectively being

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being the amount of costs incurred in this suit, with interest thereon at 6 per cent per annum from this date unto the date of realization.

Given under my hand and the Seal of the Court, this 12th day of February 1930.

(Signed) B. R. Krishnamacha

District Judge

Attested

"True copy"

Qadar Khan

Head Record Keeper.

By mr. N. Krishnamurthi for mr. N. Seshasastry A

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15/3/30	20/3/30	N. Veeraraghava Rao	

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MYSORE

Memo of costs incurred in this suit

the file of the District gudge. Shimoga

	By the plaintiff			By	
Court fee on plaint	20	0	0	0	0
" on Vakalat.	1	0	0	0	0
" Applications	4	8	0	0	0
" processes.	10	4	0	0	0
publication charges.	92	9	0	0	0
Pleader's fees	30	0	0	30	0
Totals	339	5	0	30	0

True copy

Pleader's Clerk

Head Record Keeper.

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GOVERNMENT OF MYSORE

Original suit Number 6 of 1925 1926, on

e	By the 2nd Deft.	By Defendants 3.a. 3b. 3e and 3 (i)	By Defts 3 e to 3 h.	By the 4th Defendant	By Defendants 5 to 37.
	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0
	0 8 0	1 0 0	1 8 0	1 0 0	1 0 0
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	30 0 0	30 0 0	30 0 0	30 0 0	30 0 0
	30 8 0	31 0 0	31 8 0	31 0 0	34 0 0

(Signed) B. R. Krishnamachar

District Judge)

By Mr. N. L. Vaishnavamurthi for Mr. N. Seshachari Advocate

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13/2/30		13/3/30	19/3/30	20/3/30

Copy ready on the	Copy delivered on the	Copied by	Examined by
19/3/30	20/3/30	N. Seshagiri Rao.	

No 420.
Encl. 1.

SHIMOGA.

Dated 20th. June 1930.

22 Camp Davanagere

From

N. SESHA SASTRI, ESQ., B.A., B.L.,
Public Prosecutor,
SHIMOGA DIVISION.

To

The Secretary to Government,
Law Department, Bangalore.

Sir,

Re O.S. 6/25-26, District Judge's Court, Shimoga. (Vedamurthi Balakrishna Vs Government of Mysore & others.)

In continuation of my letter No. 317 dated 1-4-1930 on the above subject forwarding copy of judgment and decree in the above case, I have the honor to forward herewith a bill for Rs 300/- being my fee for appearing in the above case and conducting the defence on behalf of Government. The bill is signed by the District Judge, Shimoga Division as required by Rule 58 of the Rules for the Conduct of Legal Affairs of Government.

It is true that the Court has fixed Rs 30/- as the Pleader's fee in the above case. But having regard to the fact (1) that the suit was one of exceptional importance and difficulty involving as it did intricate questions of law and fact (2) that though the suit was one for mere declaration, the property affected by it was very extensive yielding an annual income of over Rs 15000/- (3) that the suit dragged on for 4½ years undergoing as many as 50 hearings and (4) that the application for temporary injunction which had been granted ex-parte was subsequently opposed and contested and no separate fee is claimed for the same, it is submitted that the fee claimed viz- Rs 300/- is a reasonable amount and I request you to kindly sanction the same and order payment of the amount at an early date.

I have the honor to be,
Sir,
Your most obedient servant,
N. Seshasastri
Public Prosecutor

G.R.S. App. F VI G-2]

SUBJECT..... .....

.....

.....

Sec Law

File No. 2-29

Serial No. [illegible]

Proceedings of the Government of His Highness the Maharaja of Mysore.

Memo No. etc. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

Date of issue 15/8/30

Signed by [illegible]

Read -

Lr. No. 420 dated 22nd June 1930 from the Public Prosecutor Shimoga, forwarding a bill for Rs 2-- being his fees for services rendered in O.S. 6 of 25-26 on the file of the District Judge, Shimoga. (Veda murti Balakrishna vs Govt of Mysore & others)

Order Thereon No. 8646

In consideration of the exceptional importance and difficulty of the case, Government are pleased to sanction a fee of Rupees Two Hundred only, to the Public Prosecutor, Shimoga, ~~to be debited to the funds of the~~ The charge is to be debited to the fu.

May this be

i Printed?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

of the Sri Bhimasetu Mahasamsthana Mutt, now under Government management.

e/to Govt

new arp

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157

1) The P.P. Shimoga with the bills

2) The Mun. Com

3) The Comptroller to Govt.

[illegible] Ramesh

GOVERNMENT OF HIS HIGHNESS
ARAJA OF MYSORE

Read:-

Letter No.420, dated 22nd June 1930 from the Public Prosecutor Shimoga, forwarding a bill for Rs.300/- being his fees for services rendered in O.S. 6 of 25-26 on the file of the District Judge, Shimoga (Vedamurthi Balakrishna vs Government of Mysore and others)

Order No.P. 864-6 Laws 2.29.13

Dated, Bangalore the 15 August 1930.

In consideration of the exceptional importance and difficulty of the case, Government are pleased to sanction a fee of Rs.200/- only to the Public Prosecutor, Shimoga. The charge is to be debit-- to the funds of the Sri Bhimasetu Munivranda Mutt, now under Government Management.

M. Sampangi

for Secretary to Government
Law Department.

To

The Public Prosecutor, Shimoga, with the bills.
The Muzrai Commissioner in Mysore
The Comptroller to Government